



**COMMONWEALTH of VIRGINIA**  
*DEPARTMENT OF ENVIRONMENTAL QUALITY*

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Secretary of Natural Resources

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Robert G. Burnley  
Director

Gerard Seeley, Jr.  
Piedmont Regional Director

**WASTE MANAGEMENT BOARD ENFORCEMENT ACTION  
ORDER BY CONSENT  
ISSUED TO  
Surry County Sanitary Landfill  
Permit No. 274**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Surry County for the purpose of addressing certain violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Surry County" means Surry County, Virginia.

7. “Facility” means the Surry County Sanitary Landfill which operated under Permit No. 274, located on State Route 660, approximately one-third mile north of State Route 10, in Surry County, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “VSWMR” means the Virginia Solid Waste Management Regulations 9 VAC 20-80-10 *et seq.*

### **SECTION C: Findings of Fact**

1. Surry County owns the Surry County Sanitary Landfill, which is located on State Route 660, approximately one-third mile north of State Route 10, in Surry County, Virginia. The Surry County Sanitary Landfill operated under Permit No. 274 issued by the Department of Health. The facility stopped accepting waste in 1998 and began closure activities.
2. The VSWMR requires closure to be completed within six months. VSWMR also requires DEQ to inspect the facility at time of closure to ensure that closure is complete and adequate. The post-closure care period cannot begin until the facility has been certified as closed and satisfactorily inspected by the Department. Surry County has been gradually completing the activities associated with closure, but it has missed the required deadlines.
3. During unsatisfactory closure inspections conducted in 2002 and 2003, DEQ documented the following violations of the VSWMR:
  - Damage to the facility’s final cover system (9 VAC 20-80-250.C.2 and 9 VAC 20-80-250.E.1)
  - Levels of methane gas above the allowable limit at several points-of-compliance along the facility’s perimeter (9 VAC 20-80-280.A.1 and 9 VAC 20-80-280.E).
4. Following the January 2002 inspection, a Warning Letter was sent to Surry County documenting these problems. Although Surry County did not respond to this letter within the timeframe requested, it did eventually provide a corrective action plan that included installation of additional passive gas vents in December 2002, and if necessary, the implementation of an active gas extraction system during the first quarter of 2003. The additional vents have been installed, but the active gas extraction system has not yet been implemented.

5. During the installation of the new vents, the cap and cover system were badly damaged, exposing some waste and creating bare ground which is subject to erosion.
6. Landfill gas monitoring results submitted to DEQ by Surry County's consultant in 2003 indicate that there were still exceedances of the LEL for methane at several points of compliance, despite the installation of the new vents.
7. Because of the continuing problems with damage to the facility's final cover system, the Facility cannot be certified as closed. Additionally, landfill gas is not being effectively controlled by the existing systems, and the facility has not proceeded according to its Gas Remediation Plan. As such, a Notice of Violation (NOV) No. 2004-01-PRO-601 was issued to Surry County on January 8, 2004, for the following violations:
  - Failure to complete closure in accordance with the regulations (9 VAC 20-80-250.E.4, E.5, and E.6)
  - Failure to maintain the final cover system (9 VAC 20-80-250.E.1).
  - Failure to control decomposition gases (9 VAC 20-80-280.A.1 and 9 VAC 20-80-280.E).
8. On February 18, 2004, the Department met with Surry County to discuss the aforementioned issues. Subsequent to this meeting, Surry agreed to the corrective actions described in the attached Schedule of Compliance.
9. On June 25, 2004, and August 3, 2004, the Department conducted inspections of the facility to gauge the progress of the corrective actions. The DEQ inspector found the progress to be insufficient and the violations in the January 2004 Notice of Violation to be outstanding.
10. During the August 3, 2004 inspection, the inspector found that tires and other non-vegetative waste had been burned by the County at the site, and that white goods were being mismanaged. A Notice of Violation (NOV# 2004-08-PRO-601) was issued on August 16, 2004. The Emergency Permit issued to the County as a result of the 2004 hurricanes allowed only wood products to be open burned at the landfill.
11. During a meeting between DEQ and Surry County on August 4, 2004, Surry County again agreed to come into compliance with as specified in the draft Order.
12. On September 23, 2004 an inspection was conducted at the site which confirmed that the violations cited in the January 8, 2004 NOV had not been addressed. A NOV was issued on October 22, 2004 for these violations.
13. On March 22, 2005, a meeting was held between Surry County and the Department to discuss progress at the site and revisions to the draft Order.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted in Va. Code § 10.1-1455 orders Surry County, and Surry County agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders and Surry County voluntarily agrees to pay a civil charge of \$4,410 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," deliverable to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Surry County, for good cause shown by Surry County, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notices of Violation issued to Surry County on January 8, 2004, August 16, 2004, October 15, 2004, and October 22, 2004. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Surry County admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Surry County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Surry County declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as

a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

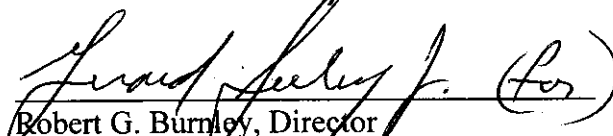
6. Failure by Surry County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Surry County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Surry County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Surry County shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Surry County. Notwithstanding the foregoing, Surry County agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Surry County. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Surry County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Surry County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 5<sup>th</sup> day of July, 2005.

  
Robert G. Burnley, Director  
Department of Environmental Quality

Surry County voluntarily agrees to the issuance of this Order.


By: 

Date: May 23, 2005

Commonwealth of Virginia

City/County of Surry

The foregoing document was signed and acknowledged before me this 23<sup>rd</sup> day of May, 2005, by Tyrone W. Franklin, on behalf  
(name)  
of Surry County.

  
Notary Public

My commission expires: December 31, 2005

## **APPENDIX A**

### **SCHEDULE OF COMPLIANCE**

1. Surry County shall not own, operate, construct, or modify any solid waste facility within the Commonwealth except in accordance with the Waste Management Act, the VSWMR, a permit issued by the Director, or an Order of the Board.
2. Surry County shall dispose of all exposed waste in a permitted and active solid waste management facility in accordance with the VSWMR no later than July 1, 2005.
3. Surry County shall repair the final cover system so as to bring the facility into compliance with the closure requirements of 9 VAC 20-80-250.E no later than July 1, 2005.
4. No later than July 1, 2005, Surry County shall provide the Department with a complete Part A, permit application for Permit Number 274. This Part A permit application will incorporate the gas monitoring probes currently located in Permit Number 565 and the two gas collection trenches that will be constructed in the Southern and Northern portions of the landfill issued Permit No. 274. Construction of the gas collection trenches on the Southern and Northern portions of the landfill issued Permit Number 274 shall be completed no later than June 1, 2005.
5. No later than July 1, 2005, Surry County shall remove and properly dispose of all debris, ash, and non-recyclable white goods remaining on the property, Surry County shall document proper removal and disposal and keep these disposal records for a minimum of three years.
6. No later than September 1, 2005, Surry County shall remove and properly dispose of the sediment in the sediment basin on the South side of the landfill.
7. No later than September 1, 2005, Surry County shall evaluate the run-on and run-off controls for the facility to ensure the design is capable of handling a 25 year 24 hour storm event. All deficiencies shall be corrected by October 1, 2005.
8. Documents submitted for the satisfaction of these requirements shall be delivered to:

Vernon C. Williams  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia 23060